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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Administrative Law Judge Crystal M. Rookard

ALC Case No. 23-ALJ-04-0672-AP
Appellate Case No. 2024-001910

STEVEN HARVEY, # 240138,

APPELLANT,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

RESPONDENT.

INITIAL BRIEF OF RESPONDENT

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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STATEMENT OF ISSUE ON APPEAL

SINCE AN INTERVENING OCCURRENCE HAS RENDERED THE APPEAL MOOT SUCH THAT NO JUSTICIABLE CONTROVERSY REMAINS, THE APPEAL SHOULD BE DISMISSED.

STATEMENT OF THE CASE

This matter comes before this Court pursuant to the appeal of Steven Harvey (Appellant), an inmate confined in SCDC. In 2023, Appellant submitted grievances concerning his rate of pay for his work in Prison Industries. These grievances were denied, and Appellant appealed to the Administrative Law Court. On October 28, 2024, Administrative Law Judge Crystal M. Rookard issued an order dismissing the appeal due to Appellant's failure to exhaust his administrative remedies. This appeal followed, and Appellant submitted his Initial Brief in November 2024.

Thereafter, Respondent filed a motion to dismiss the appeal as moot based upon the fact that Appellant had been served with an appealable Final Agency Decision regarding his wage calculations on January 15, 2025. The motion to dismiss was denied on February 10, 2025. On March 11, 2025, Respondent submitted a second motion to dismiss the appeal on the ground that the appeal was conclusively moot because Appellant filed a new Notice of Appeal in the ALC from the January 15, 2025 Final Agency Decision and the case was proceeding in the ALC. This Brief accompanies the second motion to dismiss.

STANDARD OF REVIEW

S.C. Code Ann. § 1-23-610(B) provides the general standard of review for appeals from the Administrative Law Court:

The review of the administrative law judge's order must be confined to the record. The reviewing tribunal may affirm the decision or remand the case for further proceedings; or it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

In an appeal of a final decision of an administrative agency, the standard of appellate review is whether the ALC's findings are supported by substantial evidence. S.C. Code Ann. § 1-23-610(B). "Substantial evidence" is evidence which, considering the record as a whole, would allow a reasonable mind to reach the same conclusion that administrative agency reached. Hendley v. S.C. State Budget & Control Bd., 325 S.C. 413, 481 S.E.2d 159 (Ct. App. 1996). A reviewing court shall not substitute its own judgment for that of the ALC as to findings of fact, but it may reverse or modify decisions that are controlled by errors of law or that are clearly erroneous in view of the substantial evidence on the record as a whole. Id.

ARGUMENT

SINCE AN INTERVENING OCCURRENCE HAS RENDERED THE APPEAL MOOT SUCH THAT NO JUSTICIABLE CONTROVERSY REMAINS, THE APPEAL SHOULD BE DISMISSED.

Appellant filed an appeal challenging an order of the Administrative Law Judge Crystal M. Rookard which dismissed his request to be paid the prevailing wage on failure to exhaust grounds without addressing the merits of the claim. (See October 2024 Order). Appellant submitted his Brief in November 2024. On January 15, 2025, Appellant was served with a Final Agency Decision detailing his wage calculations. (See First Motion to Dismiss and Attachments). On January 16, 2025, Appellant appealed the Final Agency Decision by filing another Notice of Appeal in the Administrative Law Court. (See Second Motion to Dismiss and attachments). This new appeal challenges the wage calculations set forth in the January 15, 2025 Final Agency Decision. The new appeal was assigned to ALC Judge Ralph King Anderson, III, on February 27, 2025, and the matter is pending under case number 2025-ALJ-04-0038-AP (see Respondent's Second Motion to Dismiss and attached Notice of Appeal and Docketing Sheet from the ALC). If Appellant is unsatisfied with the outcome of his case in that matter, he can file an appeal to the Court of Appeals.

The issue of wage calculations cannot be addressed in this appeal because wage calculations were not before the Administrative Law Court. Judge Rookard dismissed Appellant's appeal below for failure to exhaust his administrative remedies. (See ALC Order dated October 28, 2024). She did not make any ruling on the merits and therefore did not address the issue of wage calculations. Wage calculations were not before the ALC in any fashion. Therefore, the substantive issue of Appellant's wage calculations cannot be addressed by this Court in this appeal since it was not addressed by the lower court. See SCACR, Rule 210 (c) and (h).

The issuance and service of an appealable Final Agency Decision regarding Appellant's wage calculations, and Appellant's subsequent appeal to the ALC, has rendered this appeal moot because no justiciable controversy remains as to arguments made in Appellant's Brief, which was filed prior to the issuance and service of the Final Agency Decision and prior to Appellant's appeal to the ALC submitted January 16, 2025. A justiciable controversy exists "when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract." Sloan v. Friends of Hunley, Inc., 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) (citation omitted). "A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court." Mathis v. South Carolina State Highway Dep't, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). "If there is no actual controversy, this Court will not decide moot or academic questions." Id.

The order of Judge Crystal M. Rookard dismissing Appellant's ALC case for failure to exhaust is now moot since the substantive issue of Appellant's wage calculations is being litigated in the Administrative Law Court before Judge Ralph King Anderson, III, under case number 2025-ALJ-04-0061-AP. Accordingly, Respondent respectfully requests that this appeal be dismissed as moot.

CONCLUSION

For the foregoing reasons, this Court should dismiss the appeal as moot.

Respectfully submitted,

**SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS**

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March 12, 2025